REMARKS

I. PRELIMINARY AMENDMENT

Only the claim identifiers are being changed in accordance with the present election. Thus, claims 61-70 are identified as "withdrawn" (although, see traversal of restriction) whereas claims 32-39, 41, 60, 71 and 72 are identified as "previously presented."

Claim 40 is being amended to correct its dependency and is thus identified as "currently amended". No new matter is being introduced, and entry of these claims is respectfully requested.

II. RESPONSE TO RESTRICTION REQUIREMENT

The Office Action restricted the present claims into 3 independent inventions as follows:

Group I: **claims 32-60, and 71-72** drawn to a pair of oligonucleotide probes with the features as recited in the claims and a kit containing the pair of oligonucleotide probes.

Group II: **claims 61-69**, drawn to a method for detection of a target nucleotide sequence in a sample using the probe of claim 32.

Group III: **claim 70**, drawn to a set of oligonucleotides suitable for SNP genotyping.

Applicants traverse the restriction, as they disagree with the Office's position that the inventions of Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features. The Office has based its position on an allegedly disunifying reference, Gryaznov *et al.,* WO 95/01456 (*Lynx Therapeutics*) published Jan. 12, 1995. The Office contends that this reference discloses the limitations of the pair of oligonucleotide probes of claim 32 (citing to pg. 4, lines 3-31 and pg. 33, claims 1-3) such that claim 32 is not novel. Therefore, the Office concludes that the Groups are not linked as required by PCT rules 13.1 and 13.2.

One significant difference between the probes disclosed in the cited publication and the oligonucleotide probes of the present claims is that the prior art probes contain binding moieties at the end of the probes which can bind to each other to provide a linked probe. However, these binding moieties are not oligonucleotide-based and cannot be connected or linked by the ligation of nucleotides, with a ligase. This is different from the present probes where the "target segments" (target-specific sections) are designed to be bound by ligation with a ligase (see, *e.g.*,

claim 34 and the specification at paragraph [0071] (using the numbering in the published application).

A second significant difference is that although the cited publication refers to "clamp sections," these are different from the present "clamp sections" (C1 and C2 of claim 32). The prior art "clamp sections" bind to the target sequence; these are the equivalent to the "target segments" (T1 or T2) of the present claims. There is nothing in the cited publication that is equivalent to the present "clamp sections" (C1 and C2).

Either of the foregoing differences distinguishes the present claims from the cited reference; hence, this document cannot anticipate (nor does it render obvious) the present claims. Unfortunately, the Office appears to have been misled by the use of the same term ("clamp section") in the reference and the present claims which, in fact, refer to **different entities**. For this reason, this reference cannot fairly be used as a basis of novelty-destroying disunity under the PCT rules. It would therefore be proper to withdraw the restriction between the present Groups, most emphatically between Groups I and II, which are directed to compositions and method of their use (where the method claims depend from the composition claims).

Applicants also believe that the separate grouping of Group III (claim 70) is not proper in the context of the PCT Rules and treatment of claims filed under 35 USC §371. The subject matter of this claim has the same general inventive concept and the same or corresponding special technical feature as the claims of Group I. The oligonucleotides of the set of (at least three) claimed in claim 70 are built on the same principle as the probes of claim 32 *et seq.* which, as noted, are novel special technical features under the PCT Rules.

Therefore, Applicants request withdrawal of the entire restriction requirement and examination of all the pending claims (claims 32-72) at this time. At minimum, Groups I and II (claims 32-69 and 71-72) should be examined together.

To advance prosecution, in case the Office does not reconsider its improper restriction, Applicants elect Group I, claims 32-60 and 71-72 (as noted, with traverse) and have identified claims 61-70 as "withdrawn."

III. CONCLUSION

Applicants respectfully request entry of the foregoing claims and Remarks and reconsideration of the restriction requirement as discussed. The application is now in condition for Examination on the merits and allowance.

Respectfully submitted,

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